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May 13, 2005

Clerk of the Court
Chelan County Superior Court
350 Orondo, 5th Level
Wenatchee, WA 98801

Re: *Borders v. King County, et al.*
Chelan County Superior Court Cause No. 05-2-00027-3

Dear Court Clerk:

I am e-filing the following documents:

1. Letter to Clerk of Chelan County Superior Court;
2. Note for Motion
3. WSDCC's Motion for Partial Summary Judgment on Petitioners' Claims of Dual Votes;
4. Declaration of William C. Rava in Support of WSDCC's Motion for Partial Summary Judgment on Petitioners' Claims of Dual Votes;
5. (Proposed) Order Granting Washington State Democratic Central Committee's Motion for Partial Summary Judgment on Petitioners' Claims of Dual Votes; and
6. Certificate of Service.

Thank you for your assistance in this matter.

Very truly yours,

Kevin J. Hamilton

SEW:sw

[15934-0006/SL051330.224]

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · HONG KONG · LOS ANGELES
MENLO PARK · OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

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11 THE HONORABLE JOHN E. BRIDGES
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16 SUPERIOR COURT OF THE STATE OF WASHINGTON
17 FOR CHELAN COUNTY
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19 Timothy Borders et al.,
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22 Petitioners,
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24 v.
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26 King County et al.,
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28 Respondents,
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31 and
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34 Washington State Democratic Central
35 Committee,
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39 Intervenor-Respondent.
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NO. 05-2-00027-3

NOTE FOR MOTION

41
42 **TO:** THE CLERK OF THE COURT
43

44 **AND TO:** All parties and counsel of record
45
46
47

NOTE FOR MOTION - 1

[15934-0006/SL051330.193]

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Seattle, Washington 98101-3099
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1 NOTE FOR SPECIAL SETTING

2 Please note that this matter has been set before the Honorable John E. Bridges for
3
4 decision without oral argument on the 23rd day of May, 2005.
5

6 Nature of motion: **Washington State Democratic Central Committee's Motion**
7
8 **for Partial Summary Judgment on Petitioners' Claims of Dual Votes.**
9

10 DATED: May 13, 2005.
11

12 **PERKINS COIE LLP**

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26 Committee
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NOTE FOR MOTION - 2

[15934-0006/SL051330.193]

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THE HONORABLE JOHN E. BRIDGES
Noted for Calendar: Monday, May 23, 2005
Without Oral Argument

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CHELAN COUNTY

Timothy Borders et al.,

Petitioners,

v.

King County et al.,

Respondents,

and

Washington State Democratic Central
Committee,

Intervenor-Respondent.

NO. 05-2-00027-3

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT ON PETITIONERS'
CLAIMS OF DUAL VOTES

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I. INTRODUCTION

On May 2, 2005, the Court ruled that Petitioners bear the burden of proving their case by "clear and convincing" evidence. The Court further ruled that voter crediting records are not sufficient to prove that an individual actually voted in the 2004 general election. Instead, any party claiming an illegal vote is required to present the best evidence of voting: the poll book page signed by the voter or the provisional ballot or absentee ballot envelope signed by the voter. Petitioners' claims regarding 16 "dual voters" are largely based on the voter crediting records and thus, Petitioners lack the requisite proof of these claims and they should be dismissed on summary judgment. But even if Petitioners could produce evidence that each of these individuals actually cast two ballots – which Petitioners cannot – most of these claims should be dismissed on independent legal grounds.

Petitioners assert as illegal votes two types of "dual votes": (1) eleven individuals who allegedly cast two ballots in the 2004 general election in Washington (whom Petitioners refer to as "dual in-state" voters) and (2) five individuals who allegedly voted in the 2004 general election in Washington and in another state (whom Petitioners refer to as "dual multi-state" voters).

As to the dual in-state votes, Petitioners assert that both votes cast by these individuals are illegal. Thus, based on 11 allegedly illegal dual in-state voters, Petitioners seek to have 22 votes declared unlawful. Although it is illegal to cast more than one ballot in Washington, the remedy provided for by Washington law is not to nullify both ballots, but for the canvassing board to reject the second ballot and for the double voter to be subject to criminal prosecution under RCW 29A.84.650. Intervenor-Respondent Washington State Democratic Central Committee ("WSDCC") respectfully requests that the Court dismiss Petitioners' claim of dual

1 in-state voters, and that the Court reduce Petitioners' list of dual in-state votes from 22 to, at
2 most, 11. If in opposition to WSDCC's motion for summary judgment, Petitioners are unable
3 to present credible evidence that each of these individuals actually cast two ballots in
4 Washington's 2004 general election, WSDCC respectfully requests that the Court dismiss
5 Petitioners' claim of dual in-state votes in its entirety.
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10 As to the dual multi-state votes, Petitioners assert that five individuals allegedly cast a
11 ballot in Washington and in another state. The Court should dismiss these claims in their
12 entirety because (a) Washington's election contest's statutory provision regarding illegal votes
13 does not apply unless the person cast more than a single ballot in a single election in
14 Washington; (b) Petitioners did not challenge the Washington registration of the alleged
15 multi-state voters on or prior to election day; (c) Petitioners have no proof, even today, that
16 the presumptively valid Washington state registration for these voters is invalid; and (d)
17 Petitioners have not disclosed any evidence of the type required by the Court (poll book pages
18 or ballot envelopes) that these voters in fact voted in Washington and in another state.
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29 II. FACTUAL BACKGROUND

30 Petitioners' final list of alleged illegal votes and election official errors contains the
31 names of 16 voters who allegedly voted twice. Declaration of William C. Rava in Support
32 of WSDCC's Motion for Partial Summary Judgment on Petitioners' Claims of Dual Voters,
33 Ex. A (Declaration of David Bowman, Ex's 5-6). Eleven of these voters allegedly voted
34 twice in Washington; five of them allegedly voted once in Washington and once in another
35 state. *Id.* Petitioners have admitted that they did not challenge the right of these persons to
36 vote in the 2004 general election on or before election day. Rava Decl., Ex. B.
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45 In prior briefing, WSDCC explained that several of the alleged "dual voters" were
46 not in fact dual votes, but were victims of voter crediting errors. *See* WSDCC's Motion in
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1 Limine to Exclude Evidence of "Voter Crediting" and to Require Petitioners to Introduce
2 Best Evidence of Voting. In particular, WSDCC's motion in limine noted the following
3 examples of errors applicable to two of Petitioners' alleged dual in-state voters, Sarah
4 Sakimae and Frederick B. Ungrich II:
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- 8 • Ms. Sakimae is registered in King County twice, and was credited with
9 voting twice at the polls. Rava Decl., Ex. C. However, there is only one
10 signature for Ms. Sakimae on the poll book page (which lists her name
11 twice). *Id.* The second signature line for Ms. Sakimae contains the
12 handwritten note, "Is this the same as above"? *Id.* Thus, the poll book page
13 reveals that Ms. Sakimae was only issued one ballot, but that the poll worker
14 noted that her name appeared twice in the poll book. *Id.*
15
16 • Mr. Ungrich's name appears in the King County voter registration database
17 twice, with slightly different addresses. Rava Decl., Ex. D. Both
18 registrations received credit for voting, once by absentee ballot and once at
19 the polls. *Id.* However, on the poll book list, there is no signature or other
20 indication that Mr. Ungrich – or anyone else under his name – voted at the
21 polls. *Id.*
22

23 In addition to crediting errors, dual in-state voting may appear in instances where an
24 individual forgets that he or she has cast an absentee ballot, shows up at the polls on election
25 day, and casts a provisional ballot. The Secretary of State testified in his deposition on April
26 25, 2005, how this may occur:
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34 [In] my experience over the years, it happens sometimes like with
35 elderly who vote, say, 18 days before the election, and then it comes
36 to election day, they don't remember they voted, so they went to the
37 polls and they end up casting a provisional ballot. . . .
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1 Rava Decl., Ex. E (Deposition of Sam S. Reed, 125:3-7). Secretary Reed explained that
2 "obviously we should not count multiple ballots from a person," but that "we would" count
3 the first vote cast by any such person. *Id.* Dep. Tr. 134:17-18, 188:20-22.
4
5

6 An example of Petitioners' error in their claim of dual multi-state voters is Judith A.
7 Shaffer:
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- 10 • Although the King County voter crediting files mistakenly "credited" Judith
11 A. Shaffer with voting, the King County poll book reflects that Barbara G.
12 Shaffer signed Judith A. Shaffer's line on the poll book; Judith A. Shaffer did
13 not vote in Washington at all. Rava Decl., Ex.F.
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19 On May 2, 2005, the Court granted WSDCC's Motion in Limine to Exclude
20 Evidence of "Voter Crediting" and to Require Petitioners to Introduce Best Evidence of
21 Voting. Rava Decl., Ex. G (Verbatim Report of Proceedings at 5). In particular, the Court
22 held that the voter crediting files do "not bear upon the authenticity of election results," but
23 relate to a "post-election administrative exercise." *Id.* Since that ruling, Petitioners have not
24 removed from their list of illegal dual votes those names for whom Petitioners are relying
25 solely on the voter crediting files.
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32 WSDCC attempted unsuccessfully to resolve the issues presented in this motion
33 without resort to the Court. WSDCC informed Petitioners of the legal basis for this motion
34 on May 5, but Petitioners refused to drop or even to narrow their dual vote claims.
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39 **III. ARGUMENT AND AUTHORITY**

40 **A. Summary Judgment Standard**

41 Summary judgment is appropriate if "the pleadings, affidavits, depositions and
42 admissions on file demonstrate that there is no genuine issue as to any material fact and the
43 party bringing the motion is entitled to judgment as a matter of law." *DuVon v. Rockwell*
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1 *Int'l*, 116 Wn.2d 749, 753, (1991) (internal quotation marks omitted). The nonmoving party
2
3 must go beyond the pleadings and identify specific facts showing that there is a genuine
4
5 issue for trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).
6

7 **B. Petitioners' Claim of Dual In-State Votes Should Be Reduced from 22**
8 **Allegedly Illegal Votes to a Maximum of 11 Illegal Votes, If the Claim Is**
9 **Not Dismissed in Its Entirety.**
10

11 The election contest statute defines an "illegal vote" as "including but not limited to
12
13 . . . [m]ore than one ballot cast by a single voter." RCW 29A.68.020(5). By definition, one
14
15 vote cast by a single voter is not illegal. And nothing in the election contest statute provides
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17 that "all votes cast by a single voter" are illegal votes, which is how petitioners seek to
18
19 rewrite the statute.
20

21 The Washington Supreme Court has repeatedly noted that plain words do not require
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23 construction. *Wash. Econ. Dev. Fin. Auth. v. Grimm*, 119 Wn.2d 738, 738-49 (1992). Here,
24
25 the words of the statute "[m]ore than one ballot" are clear – any amount of ballots over one,
26
27 by a single voter, is illegal. If a person casts two votes in a single election, the second vote
28
29 is illegal. But not the first one. Secretary of State Reed plainly testified that the first vote is
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31 not illegal and is counted. Rava Decl., Ex. E (Reed Dep. Tr. 188:11-22). As Secretary Reed
32
33 emphasized, "what is imperative is that you make sure that you don't count more than one
34
35 vote per person." *Id.* Dep. Tr. 134:24-25.
36

37 WSDCC's interpretation (and Secretary Reed's) is supported by RCW 29A.44.090
38
39 ("Double voting prohibited"). This statute provides as follows:
40

41 A registered voter shall not be allowed to vote in the precinct in which
42 he or she is registered at any election or primary for which that voter
43 has cast an absentee ballot. A registered voter who has requested an
44 absentee ballot for a primary or special or general election but
45 chooses to vote at the voter's precinct polling place in that primary or
46 election shall cast a provisional ballot. The canvassing board shall not
47

1 count *the ballot* if it finds that the voter has also voted by absentee
2 ballot in that primary or election.
3

4 *Id.* (emphasis added). The statute does not state that the canvassing board shall not count
5 the "ballots" (plural) if the person engaged in the prohibited act of double voting, but rather
6 that the canvassing board shall not count the "ballot" (singular).
7
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10 Another relevant statutory provision is RCW 29A.84.650 ("Repeaters"). This statute
11 provides that:
12

13
14 Any person who votes or attempts to vote more than once at any
15 primary or general or special election is guilty of a gross
16 misdemeanor, punishable to the same extent as a gross misdemeanor
17 that is punishable under RCW 9A.20.021.
18

19 *Id.* The punishment for casting more than one ballot is not for the person's initial vote to be
20 declared unlawful, but for the individual "dual voter" to be subjected to imprisonment for up
21 to one year, as provided in RCW 9A.20.021.
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24
25 In sum, Petitioners are wrong in an attempting to bootstrap a claim that 11 voters
26 voted twice into a request that the Court declare 22 votes to be illegal. The proper remedy is
27 for the Court to dismiss Petitioners' claim regarding the 11 initial ballots cast by these voters
28 and, unless Petitioners come forward with non-crediting-based evidence to support these
29 claims, to dismiss the number of illegal dual in-state votes from 11 to zero.
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35 **C. Petitioners' Claim Of Dual Multi-State Votes Should Be Dismissed in Its
36 Entirety.**
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39 As the parties have noted repeatedly in briefing this case, the "right to contest an
40 election 'rests solely upon, and is limited by, the provisions of the statute relative thereto.'" *Becker v. Pierce*, 126 Wn.2d 11, 18 (1995) (quoting *Quigley v. Phelps*, 74 Wash. 73, 75
41 (1913)). Petitioners' claim regarding multi-state voters should be dismissed because it is not
42 supported by Washington's election contest statutes.
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1 First, nothing in Washington's election contest statute provides that an "illegal vote"
2 includes a vote by a person who cast only one ballot in Washington, but who also cast a
3 ballot in another state's election. Although such a "dual vote" would have implications in an
4 election for nation-wide office such as the President, it has no impact on an election for
5 state-wide office such as the Office of Governor. By definition, if the person cast a ballot in
6 Washington and another ballot in, say, Oregon, the person could not have cast "more than
7 one ballot" for the Office of Governor of Washington.
8

9 Second, given that RCW 29A.68.020(5)(b)'s definition of illegal votes does not
10 expressly include voters who cast one ballot in Washington and another ballot in another
11 state, Petitioners were required to challenge the registration of any dual multi-state voters
12 prior to or on election day under RCW 29A.08.810 and RCW 29A.08.820. Petitioners have
13 admitted that they did not make any challenges to any person's right to vote in the 2004
14 general election on or before election day, Rava Decl., Ex. B, so, as with Petitioners' claim
15 of non-citizen voters, Petitioners are barred from attempting to challenge the validity of the
16 Washington voter registrations of these individuals months after the election.
17

18 Third, even if the Court interprets the phrase, "[m]ore than one vote cast by a single
19 voter," to apply to individuals who cast only a single ballot in Washington's election, and
20 even if the Court does not require Petitioners to have challenged the Washington voter
21 registrations of any dual multi-state voters on or before election day, Petitioners' dual voter
22 multi-state claim still fails because Petitioners have no evidence to overcome the
23 presumption that the Washington voter registrations of these individuals are valid.
24 "Registration of a person as a voter is presumptive evidence of his or her right to vote at any
25 primary or election, general or special." RCW 29A.08.810. And, of course, Petitioners bear
26 the burden of proving by clear and convincing evidence that the "challenged voter's
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1 registration is improper." RCW 29A.08.820. It is entirely possible that these individuals
2 were validly registered in Washington and not validly registered in another state. But it is
3
4 Petitioners' burden to prove that their Washington registration is invalid.
5

6
7 Finally, in light of the Court's granting of WSDCC's motion in limine regarding the
8
9 best evidence of voting, Petitioners' multi-state dual vote claims should be dismissed for this
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11 reason alone. Petitioners may not rest upon the mere allegations of their Election Contest
12
13 Petition, CR 56(e), but must, in opposition to this motion, "set forth specific facts showing
14
15 that there is a genuine issue for trial" on these claims. To date, Petitioners have not
16
17 produced any evidence of the type required by the Court (poll book pages or signed ballot
18
19 envelopes) that these voters in fact voted in Washington and in another state in the 2004
20
21 general election.
22

23 IV. CONCLUSION

24
25 For the reasons set forth above, the Court should dismiss on summary judgment
26
27 Petitioners' claims of illegal dual in-state and multi-state votes.
28

29 DATED: May 13, 2005.
30

31 PERKINS COIE LLP

32
33
34 By /s/ Kevin J. Hamilton
35
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37 David J. Burman, WSBA # 10611
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THE HONORABLE JOHN E. BRIDGES

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CHELAN COUNTY

Timothy Borders et al.,

 Petitioners,

 v.

King County et al.,

 Respondents,

and

Washington State Democratic Central
Committee,

 Intervenor-Respondent.

NO. 05-2-00027-3

DECLARATION OF WILLIAM C.
RAVA IN SUPPORT OF
WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT ON PETITIONERS'
CLAIMS OF DUAL VOTERS

1 I, William C. Rava, state and declare as follows:

2
3 1. I am one of the attorneys for Intervenor-Respondent Washington State
4 Democratic Central Committee ("WSDCC"), am competent to make this declaration, and do
5 so upon personal knowledge as indicated.
6

7
8 2. True and correct copies of Exhibits 5 and 6 to the Declaration of David
9 Bowman filed on April 15, 2005, are attached hereto as Exhibit A.
10

11
12 3. A true and correct copy of excerpts of Petitioners' Objections, Answers, and
13 Responses to WSDCC's First Interrogatories and Requests for Production is attached hereto
14 as Exhibit B.
15

16
17 4. True and correct copies of Sarah Sakimae's poll book page from King County
18 and the "King County Voter Search" records for both registrations are attached hereto as
19 Exhibit C. These documents were produced to WSDCC by King County in response to
20 document requests issued in connection with this litigation.
21

22
23 5. True and correct copies of Frederick B. Ungrich II's poll book pages and the
24 "King County Voter Search" records for both registrations are attached hereto as Exhibit D.
25 These documents were produced to WSDCC by King County in response to document
26 requests issued in connection with this litigation.
27

28
29 6. A true and correct copy of excerpts of the deposition of Secretary of State
30 Sam Reed, taken in this case on April 25, 2005, is attached hereto as Exhibit E.
31

32
33 7. True and correct copies of Judith A. Shaffer's poll book page and the "King
34 County Voter Search" records for her registration and that of Barbara G. Shaffer are attached
35 hereto as Exhibit F. These documents were produced to WSDCC by King County in
36 response to document requests issued in connection with this litigation.
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1 I, William C. Rava, state and declare as follows:
2

3 1. I am one of the attorneys for Intervenor-Respondent Washington State
4 Democratic Central Committee ("WSDCC"), am competent to make this declaration, and do
5 so upon personal knowledge as indicated.
6
7

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36 response to document requests issued in connection with this litigation.
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8. A true and correct copy of the Verbatim Report of Proceedings before this Court on May 2, 2005, is attached hereto as Exhibit G.

I declare subject to penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED and DATED at Seattle, Washington, this 13th day of May, 2005 by
WILLIAM C. RAVA.

s/ William C. Rava

William C. Rava

EXHIBIT A

EXHIBIT 5

DUAL IN-STATE

Petitioners identify the following as illegal votes under RCW 29A.68.020(5), because the identified persons cast more than one ballot in the State of Washington. Multiple ballots cast by the same voter are unlawful votes counted due to errors, neglect, and/or misconduct of elections officials under RCW 29A.68.020(1) and/or 29A.68.011. Petitioners intend to use a proportional analysis to show for whom such votes were cast. See the experts' reports submitted as Exhibits A and B to Petitioners' Witness List, filed herewith. Based on the experts' analyses, if invalid votes identified by Petitioners had not been counted, Dino Rossi would have won the election by approximately 100 votes. (This number will increase when the most recently discovered invalid votes are factored in to their analyses.)

County	VoterId	Last	First	Middle	Registered Address	City	State	Zip	Precinct	DOB
1 Chelan	55233	HESSBURG	PAUL	F	1421 FIRST ST	WENATCHEE	WA	98801	59	6/22/1984
2 Chelan	17134	HESSBURG	PAUL	F	1421 FIRST ST	WENATCHEE	WA	98801	59	6/22/1984
3 King	20273721	BLIGH	SHARI	D	10909 AVONDALE RD NE T 178	REDMOND	WA	98052	3281	10/10/1967
4 King	990650307	BLIGH	SHARI	D	10909 AVONDALE RD NE T 178	REDMOND	WA	98052	3281	10/10/1967
5 King	710327149	BROWN	PATRICIA	A	10106 NE 16TH PL	BELLEVUE	WA	98004	194	2/3/1944
6 King	710448825	BROWN	PATRICIA	A	12709 NE 28TH ST	BELLEVUE	WA	98005	224	2/3/1944
7 King	157279	DIAZ	DARLENE		16825 119TH PL NE	BOTHELL	WA	98011	3321	3/31/1969
8 King	980135789	DIAZ	DARLENE		16825 119TH PL NE	BOTHELL	WA	98011	3321	3/31/1969
9 King	40006249	FULLER	GEORGE	R	3008 13TH AVE S	SEATTLE	WA	98144	1942	8/27/1955
10 King	40051368	FULLER	GEORGE	R	3008 13TH AVE S	SEATTLE	WA	98144	1942	8/27/1955
11 King	880400568	HARLEMAN	THOMAS	J	24210 SE 203RD ST	MAPLE VALLEY	WA	98038	37	4/5/1969
12 King	712220627	HARLEMAN	THOMAS	J	24038 SE 203RD ST	MAPLE VALLEY	WA	98038	37	4/5/1969
13 King	30055136	MENDIOLA	JENNIFER	C	6901 S 123RD ST 164	SEATTLE	WA	98178	233	5/5/1970
14 King	40325204	MENDIOLA	JENNIFER	C	6901 S 123RD ST 164	SEATTLE	WA	98178	233	5/27/1971
15 King	245941	NELSON	TARA	B	14310 37TH AVE NE	SEATTLE	WA	98125	2371	8/3/1971
16 King	10197813	NELSON	TARA	BROOKE	14310 37TH AVE NE	SEATTLE	WA	98125	2371	8/3/1971
17 King	30267648	PRINCE	MICHAEL	R	2702 QUEEN ANNE AVE N	SEATTLE	WA	98109	1759	9/23/1976
18 King	20040467	PRINCE	MICHAEL	R	2702 QUEEN ANNE AVE N	SEATTLE	WA	98109	1759	9/23/1976
19 King	30003861	SAKIMAE	SARAH	M	1039 NE 90TH ST	SEATTLE	WA	98115	2282	2/19/1983
20 King	30064071	SAKIMAE	SARAH	M	1039 NE 90TH ST	SEATTLE	WA	98115	2282	2/19/1983
21 King	40099921	UNGRICH	FREDERICK	B	1726 SUMMIT AVE 307	SEATTLE	WA	98122	1844	6/25/1953
22 King	720569	UNGRICH	FREDERICK	B	1712 SUMMIT AVE 3	SEATTLE	WA	98122	1844	6/25/1953

EXHIBIT 6

DUAL MULTI-STATE

Petitioners identify the following as illegal votes under RCW 29A.68.020(5) of persons who cast a ballot in Washington and in another state. Ballots cast in Washington and in other states by the same voter are unlawful votes counted due to errors, neglect, and/or misconduct of elections officials under RCW 29A.68.020(1) and/or 29A.68.011. Petitioners intend to use a proportional analysis to show for whom such votes were cast. See the experts' reports submitted as Exhibits A and B to Petitioners' Witness List, filed herewith. Based on the experts' analyses, if invalid votes identified by Petitioners had not been counted, Dino Rossi would have won the election by approximately 100 votes. (This number will increase when the most recently discovered invalid votes are factored in to their analyses.)

County	Voterid	Last	First	Middle	Registered Address	City	State	Zip	Precinct	DOB (redacted)
King	940560300	HARTMAN	ARTRESE		3900 SOUTHCENTER BLVD C12	TUKWILA	WA	98188	3393	
King	30331940	BROOKS	BRIAN	E	327 NE 95TH ST	SEATTLE	WA	98115	2358	
King	990483921	HEIDMILLER	JOHN	WILLIAM	3051 ALKI AVE SW B	SEATTLE	WA	98116	1438	
King	910389394	SHAFFER	JUDITH	A	2810 ALPINE ST SE	AUBURN	WA	98002	58	
Kitsap	5937	GLASER	KAREN	C	1636 ARVON AVE	BREMERTON	WA	98312-3033	100013	

EXHIBIT B

THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER TIMOTHY
BORDERS**

Petitioner Timothy Borders ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking to impose obligations beyond those required by the Civil Rules and as seeking work product. Petitioner will set forth its objections in compliance with the Civil Rules.

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER TIMOTHY BORDERS -

1

SEA 1612515v1 55441-4

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1 the parties possess the information, in advance of the statutory deadline. In any event, the
2 final list of illegal votes that will be the subject of this election contest shall be produced in
3 accordance with RCW 29A.68.100.

4 11. Petitioner objects to these requests to the extent they seek the same
5 information set forth in the Affidavit of Timothy Borders dated January 15, 2005. The
6 WSDCC already has a copy of that affidavit and Petitioner will not here restate its
7 contents.

8 INTERROGATORIES

9 INTERROGATORY NO. 1: Identify any Challenge you made to any person's
10 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
11 Day.

12 ANSWER: Petitioner did not make any such challenges.

13
14 INTERROGATORY NO. 2: For any Challenge identified in response to
15 Interrogatory No. 1, identify the person whose right to vote you Challenged.

16 ANSWER: See Answer to Interrogatory No. 1.

17
18 INTERROGATORY NO. 3: Identify any Personal Knowledge you have of any
19 felon having voted in the 2004 General Election, if any, and identify the following:

- 20 a. The felon;
- 21 b. The date that the county in which the felon voted learned of the
22 felon's conviction;
- 23 c. Any facts indicating whether the felon has had his or her rights
24 restored and, if they have been, the date the rights were restored;
- 25 d. What steps you took, if any, to determine if the person's rights had
26 been restored;
- 27 e. Any facts indicating that the felon voted in the Gubernatorial
Election; and

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER TIMOTHY BORDERS -

4

SEA 1612515v1 55441-4

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THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER THOMAS
CANTERBURY**

Petitioner Thomas Canterbury ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking to impose obligations beyond those required by the Civil Rules and as seeking work product. Petitioner will set forth its objections in compliance with the Civil Rules.

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER THOMAS
CANTERBURY - 1

SEA 1612517v1 55441-4

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1 the parties possess the information, in advance of the statutory deadline. In any event, the
2 final list of illegal votes that will be the subject of this election contest shall be produced in
3 accordance with RCW 29A.68.100.

4 INTERROGATORIES

5 INTERROGATORY NO. 1: Identify any Challenge you made to any person's
6 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
7 Day.

8 ANSWER: Petitioner did not make any such challenges.

9
10 INTERROGATORY NO. 2: For any Challenge identified in response to
11 Interrogatory No. 1, identify the person whose right to vote you Challenged.

12 ANSWER: See Answer to Interrogatory No. 1.

13
14 INTERROGATORY NO. 3: Identify any Personal Knowledge you have of any
15 felon having voted in the 2004 General Election, if any, and identify the following:

- 16 a. The felon;
- 17 b. The date that the county in which the felon voted learned of the
18 felon's conviction;
- 19 c. Any facts indicating whether the felon has had his or her rights
20 restored and, if they have been, the date the rights were restored;
- 21 d. What steps you took, if any, to determine if the person's rights had
22 been restored;
- 23 e. Any facts indicating that the felon voted in the Gubernatorial
24 Election; and
- 25 f. Any facts indicating which candidate the felon voted for in the
26 Gubernatorial Election.

27 ANSWER: See General Objection No. 5. Without waiving this objection,
Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
Interrogatory No. 3 in the Objections, Answers, and Responses to the Washington State

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER THOMAS
CANTERBURY - 4
SEA 1612517v1 55441-4

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THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER PAUL ELVIG**

Petitioner Paul Elvig ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking to impose obligations beyond those required by the Civil Rules and as seeking work product. Petitioner will set forth its objections in compliance with the Civil Rules.

1 the parties possess the information, in advance of the statutory deadline. In any event, the
2 final list of illegal votes that will be the subject of this election contest shall be produced in
3 accordance with RCW 29A.68.100.

4 INTERROGATORIES

5 **INTERROGATORY NO. 1:** Identify any Challenge you made to any person's
6 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
7 Day.

8 **ANSWER:** Petitioner did not make any such challenges.

9
10 **INTERROGATORY NO. 2:** For any Challenge identified in response to
11 Interrogatory No. 1, identify the person whose right to vote you Challenged.

12 **ANSWER:** See Answer to Interrogatory No. 1.

13
14 **INTERROGATORY NO. 3:** Identify any Personal Knowledge you have of any
15 felon having voted in the 2004 General Election, if any, and identify the following:

- 16 a. The felon;
- 17 b. The date that the county in which the felon voted learned of the
18 felon's conviction;
- 19 c. Any facts indicating whether the felon has had his or her rights
20 restored and, if they have been, the date the rights were restored;
- 21 d. What steps you took, if any, to determine if the person's rights had
22 been restored;
- 23 e. Any facts indicating that the felon voted in the Gubernatorial
24 Election; and
- 25 f. Any facts indicating which candidate the felon voted for in the
26 Gubernatorial Election.

27 **ANSWER:** See General Objection No. 5. Without waiving this objection,
Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
Interrogatory No. 3 in the Objections, Answers, and Responses to the Washington State

THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER MARGIE
FERRIS**

Petitioner Margie Ferris ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking to impose obligations beyond those required by the Civil Rules and as seeking work product. Petitioner will set forth its objections in compliance with the Civil Rules.

1 the parties possess the information, in advance of the statutory deadline. In any event, the
2 final list of illegal votes that will be the subject of this election contest shall be produced in
3 accordance with RCW 29A.68.100.

4 INTERROGATORIES

5 INTERROGATORY NO. 1: Identify any Challenge you made to any person's
6 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
7 Day.

8 ANSWER: Petitioner did not make any such challenges.

9
10 INTERROGATORY NO. 2: For any Challenge identified in response to
11 Interrogatory No. 1, identify the person whose right to vote you Challenged.

12 ANSWER: See Answer to Interrogatory No. 1.

13
14 INTERROGATORY NO. 3: Identify any Personal Knowledge you have of any
15 felon having voted in the 2004 General Election, if any, and identify the following:

- 16 a. The felon;
- 17 b. The date that the county in which the felon voted learned of the
18 felon's conviction;
- 19 c. Any facts indicating whether the felon has had his or her rights
20 restored and, if they have been, the date the rights were restored;
- 21 d. What steps you took, if any, to determine if the person's rights had
22 been restored;
- 23 e. Any facts indicating that the felon voted in the Gubernatorial
24 Election; and
- 25 f. Any facts indicating which candidate the felon voted for in the
26 Gubernatorial Election.

27 ANSWER: See General Objection No. 5. Without waiving this objection,
Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
Interrogatory No. 3 in the Objections, Answers, and Responses to the Washington State

THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER TOM HUFF**

Petitioner Tom Huff ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking to impose obligations beyond those required by the Civil Rules and as seeking work product. Petitioner will set forth its objections in compliance with the Civil Rules.

1 the parties possess the information, in advance of the statutory deadline. In any event, the
2 final list of illegal votes that will be the subject of this election contest shall be produced in
3 accordance with RCW 29A.68.100.

4 INTERROGATORIES

5 INTERROGATORY NO. 1: Identify any Challenge you made to any person's
6 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
7 Day.

8 ANSWER: Petitioner did not make any such challenges.

9
10 INTERROGATORY NO. 2: For any Challenge identified in response to
11 Interrogatory No. 1, identify the person whose right to vote you Challenged.

12 ANSWER: See Answer to Interrogatory No. 1.

13
14 INTERROGATORY NO. 3: Identify any Personal Knowledge you have of any
15 felon having voted in the 2004 General Election, if any, and identify the following:

- 16 a. The felon;
- 17 b. The date that the county in which the felon voted learned of the
18 felon's conviction;
- 19 c. Any facts indicating whether the felon has had his or her rights
20 restored and, if they have been, the date the rights were restored;
- 21 d. What steps you took, if any, to determine if the person's rights had
22 been restored;
- 23 e. Any facts indicating that the felon voted in the Gubernatorial
24 Election; and
- 25 f. Any facts indicating which candidate the felon voted for in the
26 Gubernatorial Election.

27 ANSWER: See General Objection No. 5. Without waiving this objection,
Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
Interrogatory No. 3 in the Objections, Answers, and Responses to the Washington State

THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER EDWARD
MONAGHAN**

Petitioner Edward Monaghan ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking to impose obligations beyond those required by the Civil Rules and as seeking work product. Petitioner will set forth its objections in compliance with the Civil Rules.

**OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER EDWARD
MONAGHAN - I**

SEA 1612523v1 55441-4

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1 the parties possess the information, in advance of the statutory deadline. In any event, the
2 final list of illegal votes that will be the subject of this election contest shall be produced in
3 accordance with RCW 29A.68.100.

4 INTERROGATORIES

5 INTERROGATORY NO. 1: Identify any Challenge you made to any person's
6 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
7 Day.

8 ANSWER: Petitioner did not make any such challenges.

9
10 INTERROGATORY NO. 2: For any Challenge identified in response to
11 Interrogatory No. 1, identify the person whose right to vote you Challenged.

12 ANSWER: See Answer to Interrogatory No. 1.

13
14 INTERROGATORY NO. 3: Identify any Personal Knowledge you have of any
15 felon having voted in the 2004 General Election, if any, and identify the following:

- 16 a. The felon;
- 17 b. The date that the county in which the felon voted learned of the
18 felon's conviction;
- 19 c. Any facts indicating whether the felon has had his or her rights
20 restored and, if they have been, the date the rights were restored;
- 21 d. What steps you took, if any, to determine if the person's rights had
22 been restored;
- 23 e. Any facts indicating that the felon voted in the Gubernatorial
24 Election; and
- 25 f. Any facts indicating which candidate the felon voted for in the
26 Gubernatorial Election.

27 ANSWER: See General Objection No. 5. Without waiving this objection,
Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
Interrogatory No. 3 in the Objections, Answers, and Responses to the Washington State

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPs TO PETITIONER EDWARD
MONAGHAN - 4

SEA 1612523v1 55441-4

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Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER ROSSI-FOR-
GOVERNOR CAMPAIGN**

Petitioner Rossi-for-Governor Campaign (the "Rossi Campaign") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. The Rossi Campaign objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking to impose obligations beyond those required by the Civil Rules and as seeking work product. The Rossi Campaign will set forth its objections in compliance with the Civil Rules.

1 governed by RCW 29A.68.100. In an effort to expedite the discovery process, however,
2 the Rossi Campaign is willing to discuss and agree to a mutual exchange of such lists, to
3 the extent the parties possess the information, in advance of the statutory deadline. In any
4 event, the final list of illegal votes that will be the subject of this election contest shall be
5 produced in accordance with RCW29A.68.100.

6 INTERROGATORIES

7 **INTERROGATORY NO. 1:** Identify any Challenge you made to any person's
8 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
9 Day.

10 **ANSWER:** The Rossi Campaign did not make any such challenges.

11
12 **INTERROGATORY NO. 2:** For any Challenge identified in response to
13 Interrogatory No. 1, identify the person whose right to vote you Challenged.

14 **ANSWER:** Please see answer to Interrogatory No. 1.

15
16 **INTERROGATORY NO.3:** Do you contend any felon voted in the 2004 General
17 Election. If so, state the basis for that contention and identify the following:

- 18 a. The felon;
- 19 b. The date that the county in which the felon voted learned of the
20 felon's conviction;
- 21 c. Any facts indicating whether the felon has had his or her rights
22 restored and, if they have been, the date the rights were restored;
- 23 d. What steps you took, if any, to determine if the person's rights had
24 been restored;
- 25 e. Any facts indicating that the felon voted in the Gubernatorial
26 Election; and
- 27 f. Any facts indicating which candidate the felon voted for in the
Gubernatorial Election.

THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER CHRISTOPHER
VANCE**

Petitioner Christopher Vance ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production. In his capacity as Chairman of the Washington State Republican Party, Petitioner has coordinated the Republican Party's observation of the 2004 election and its investigation into apparent mistakes, errors, and instances of neglect and wrongful conduct by election officials. Many of the results of this investigation are reflected in the Rossi for Governor responses.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking

**OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 1**

SEA 1612526v1 55441-4

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1 governed by RCW 29A.68.100. In an effort to expedite the discovery process, however,
2 Petitioner is willing to discuss and agree to a mutual exchange of such lists, to the extent
3 the parties possess the information, in advance of the statutory deadline. In any event, the
4 final list of illegal votes that will be the subject of this election contest shall be produced in
5 accordance with RCW 29A.68.100.

6 11. Petitioner objects to these requests to the extent they seek the same
7 information set forth in the Affidavit of Chris Vance dated January 7, 2005. The WSDCC
8 already has a copy of that affidavit and Petitioner will not here restate its contents.

9 **INTERROGATORIES**

10 **INTERROGATORY NO. 1:** Identify any Challenge you made to any person's
11 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
12 Day.

13 **ANSWER:** Petitioner did not make any such challenges.

14
15 **INTERROGATORY NO. 2:** For any Challenge identified in response to
16 Interrogatory No. 1, identify the person whose right to vote you Challenged.

17 **ANSWER:** See Answer to Interrogatory No. 1.

18
19 **INTERROGATORY NO. 3:** Identify any Personal Knowledge you have of any
20 felon having voted in the 2004 General Election, if any, and identify the following:

- 21 a. The felon;
- 22 b. The date that the county in which the felon voted learned of the
23 felon's conviction;
- 24 c. Any facts indicating whether the felon has had his or her rights
25 restored and, if they have been, the date the rights were restored;
- 26 d. What steps you took, if any, to determine if the person's rights had
27 been restored;

**OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 4**

SEA 1612526v1 55441-4

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EXHIBIT C

KC 04121

PRECINCT NAME :

SEA 46-2282

2282

PAGE : 1762

MARK WHEN ISSUED	MARK SB FOR SPOILED BALLOT	✓ FOR SPECIAL / CHALLENGED BALLOT	BALLOT NO. GIVEN VOTER	BALLOT CODE REGISTRATION NO.	NAME AND ADDRESS	DOB / Gender
1				BALLOT CODE 10 REGISTRATION NO. 90003861	SAKIMAE, SARAH M 1039 NE 90TH ST	2/19 F
2				BALLOT CODE 10 REGISTRATION NO. 30064071	SAKIMAE, SARAH M 1039 NE 90TH ST	2/19 F
3				BALLOT CODE 10 REGISTRATION NO. 223239	SALHI, ZINER 8601 15TH AVE NE # 101	1/23 M
4				BALLOT CODE 10 REGISTRATION NO. 990622483	SALHI, ZINER 8601 15TH AVE NE # 101	6/14 F
5				BALLOT CODE 10 REGISTRATION NO. 960853631	SANCHEZ, EUGENE 1026 NE 88TH ST	5/28 M
6				BALLOT CODE 10 REGISTRATION NO. 740144090	SANDBERG, KURT 1219 NE 88TH ST	2/14 M
7				BALLOT CODE 10 REGISTRATION NO. 910268704	SATTERLUND, LISA L 1036 NE 89TH ST	5/10 F
8				BALLOT CODE 10 REGISTRATION NO. 990674554	SCHMIDT, ANTHONY J 8801 15TH AVE NE # 301	7/03 M
9				BALLOT CODE 10 REGISTRATION NO. 10198267	SCHNEIDER, RACHEL MARY 1208 NE 89TH ST	7/22 F
10				BALLOT CODE 10 REGISTRATION NO. 940797225	SCHRAVEN, KAREN J 1019 NE 89TH ST # 1	1/24 F

I HEREBY DECLARE UNDER PENALTIES OF PERJURY THAT I AM A REGISTERED VOTER OF THE STATE OF WASHINGTON QUALIFIED TO CAST A BALLOT AT THIS ELECTION AND THAT I HAVE VERIFIED MY ADDRESS AS IT APPEARS ON THIS PAGE.

SIG. TOTAL THIS PAGE :

6








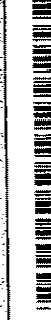


King Co Voter Search

name_last	SAKIMAE	PAV	N
name_first	SARAH	source	
name_middle	M	birth_place	
v1104	V	birth_date	00/00/0000
voter_id	30003861	care_of	
status	A	mail_street	
affidavit		mail_city	
last_voted		mail_state	
name_prefix		mail_zip	
name_suffix		mail_country	
house_number		ltd	7/12/2004 0:00:00
house_fraction		language	
pre_dir		drivers_license	
street		reg_date_original	1/6/2003 0:00:00
type		perm_category	
post_dir		confidential	N
building_number		IDRequired	
apartment_numbe		Citizen	
city		UnderAge	
state		reg_date	10/25/2002 0:00:00
zip		image_id	990666913
precinct	2282	phone_1	
portion	282	phone_2	
consolidation		military	N
alpha_split		gender	F
party	NP		

King Co Voter Search

name_last	SAKIMAE	PAV	N
name_first	SARAH	source	
name_middle	M	birth_place	
v1104	V	birth_date	00/00/0000
voter_id	30064071	care_of	
status	A	mail_street	
affidavit		mail_city	
last_voted		mail_state	
name_prefix		mail_zip	
name_suffix		mail_country	
house_number		ltd	7/15/2004 0:00:00
house_fraction		language	
pre_dir		drivers_license	
street		reg_date_original	1/21/2003 0:00:00
type		perm_category	
post_dir		confidential	N
building_number		IDRequired	
apartment_numbe		Citizen	
city		UnderAge	
state		reg_date	12/11/2002 0:00:00
zip		image_id	990681825
precinct	2282	phone_1	
portion	282	phone_2	
consolidation		military	N
alpha_split		gender	F
party	NP		

EXHIBIT D

Bar Code	MARK 1 WHEN ISSUED	MARK SB FOR SPOILED BALLOT	✓ FOR SPECIAL / CHALLENGED BALLOT	BALLOT NO. GIVEN VOTER	BALLOT CODE REGISTRATION NUMBER	NAME AND ADDRESS	DOB / Gender
1					BALLOT CODE 3 REGISTRATION NO. 960378628	TREACY, MICHAEL STARBUCK 1718 SUMMIT AVE # 202 Must Update Voter Registration	11/29 M
2					BALLOT CODE 3 REGISTRATION NO. 960464231	TRIEBEL, CYNTHIA ELIZABETH 1727 BELMONT AVE # 203 Must Update Voter Registration	3/05 F
3					BALLOT CODE 3 REGISTRATION NO. 10059526	TROMMER, MARY M 1722 SUMMIT AVE Must Update Voter Registration	5/02 F
4					BALLOT CODE 3 REGISTRATION NO. 990636630	TROUTMAN, ROBERT J 1712 SUMMIT AVE # 23 Must Update Voter Registration	4/20 M
5					BALLOT CODE 3 REGISTRATION NO. 10219272	TRUJILLO, HERNAN 1736 SUMMIT AVE # 3 Must Update Voter Registration	2/27 M
6					BALLOT CODE 3 REGISTRATION NO. 950521899	TURCZYNSKI, CAREY J 1717 BELMONT AVE # 38 Must Update Voter Registration	10/12 M
7					BALLOT CODE 3 REGISTRATION NO. 910226797	TURNQUIST, JOEL 1722 SUMMIT AVE # 301 Must Update Voter Registration	12/22 M
8					BALLOT CODE 3 REGISTRATION NO. 20238969	TYDEMAN, JEFFREY B 1725 SUMMIT AVE # 113 Must Update Voter Registration	5/10 M
9					BALLOT CODE 3 REGISTRATION NO. 990077878	TYLER, KATHERINE ELIZABETH 1736 SUMMIT AVE # 205 Must Update Voter Registration	8/07 F
10					BALLOT CODE 3 REGISTRATION NO. 720569	UNGRIK, FREDERICK B II 1712 SUMMIT AVE # 3 Must Update Voter Registration	6/25 M

68

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SIG. TOTAL THIS PAGE :

2

KC 04116

PRECINCT NAME: SEA 43-1844		1844		PAGE: 3850		DOB / Gender	
Bar Code	MARK WHEN ISSUED	MARK SB FOR SPOILED BALLOT	✓ FOR SPECIAL / CHALLENGED BALLOT	BALLOT NO. GIVEN VOTER	BALLOT CODE REGISTRATION NUMBER	NAME AND ADDRESS	DOB / Gender
1					BALLOT CODE 3 REGISTRATION NO. 40099921	UNGRICH, FREDERICK B II 1726 SUMMIT AVE # 307	6/25 M
2					BALLOT CODE 3 REGISTRATION NO. 300246218	VAARA, CHRISTINE 1722 SUMMIT AVE	12/05 F
3					BALLOT CODE 3 REGISTRATION NO. 940341582	VEGA, J A 1726 SUMMIT AVE	7/14 M
4					BALLOT CODE 3 REGISTRATION NO. 305421	VEGA, MATTHEW J 1726 SUMMIT AVE	1/25 M
5		I		041	BALLOT CODE 3 REGISTRATION NO. 790074025	Must Update Voter Registration VESTER, EUGENE E 1705 BELMONT AVE # 104	2/01 M
6					BALLOT CODE 3 REGISTRATION NO. 960958079	VILINSKAS, ERIK 1705 BELMONT AVE # 703	6/18 M
7					BALLOT CODE 3 REGISTRATION NO. 970670947	VILINSKAS, LEON 1705 BELMONT AVE # 703	4/30 M
8		I		012	BALLOT CODE 3 REGISTRATION NO. 20149825	VISICK, RICHARD E 1700 SUMMIT AVE # 301	1/09 M
9					BALLOT CODE 3 REGISTRATION NO. 840566064	WADSWORTH, LARRY C 1712 SUMMIT AVE # 50	4/12 M
10					BALLOT CODE 3 REGISTRATION NO. 861089671	WAGENIUS, JERRY ARTIUR 1726 SUMMIT AVE # 208 Must Update Voter Registration	9/30 M

KC 04117

I HEREBY DECLARE UNDER PENALTIES OF PERJURY THAT I AM A REGISTERED VOTER OF THE STATE OF WASHINGTON QUALIFIED TO CAST A BALLOT AT THIS ELECTION AND THAT I HAVE VERIFIED MY ADDRESS AS IT APPEARS ON THIS PAGE.

60

SIG. TOTAL THIS PAGE: 2

King Co Voter Search

name_last	UNGRICH	PAV	N
name_first	FREDERICK	source	
name_middle	B	birth_place	
v1104	V	birth_date	00/00/0000
voter_id	720569	care_of	
status	A	mail_street	
affidavit		mail_city	
last_voted		mail_state	
name_prefix		mail_zip	
name_suffix	II	mail_country	
house_number		ltd	11/5/2004 0:00:00
house_fraction		language	
pre_dir		drivers_license	
street		reg_date_original	10/19/2000 0:00:00
type		perm_category	
post_dir		confidential	N
building_number		IDRequired	
apartment_numbe		Citizen	
city		UnderAge	
state		reg_date	8/30/2000 0:00:00
zip		image_id	720569
precinct	1844	phone_1	
portion	844	phone_2	
consolidation		military	N
alpha_split		gender	M
party	NP		

King Co Voter Search

name_last	UNGRICH	PAV	Y
name_first	FREDERICK	source	
name_middle	B	birth_place	
v1104	A(NP)	birth_date	00/00/0000
voter_id	40099921	care_of	
status	A	mail_street	
affidavit		mail_city	
last_voted		mail_state	
name_prefix		mail_zip	
name_suffix	II	mail_country	
house_number		ltd	8/10/2004 0:00:00
house_fraction		language	
pre_dir		drivers_license	
street		reg_date_original	3/4/2004 0:00:00
type		perm_category	P
post_dir		confidential	N
building_number		IDRequired	
apartment_numbe		Citizen	
city		UnderAge	
state		reg_date	6/21/2004 0:00:00
zip		image_id	990746192
precinct	1844	phone_1	
portion	844	phone_2	
consolidation		military	N
alpha_split		gender	M
party	NP		

EXHIBIT E

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR THE COUNTY OF CHELAN
3

4 TIMOTHY BORDERS, et al.,
5 Petitioners,

6 vs. Case No.
7 05-2-00027-3

8 KING COUNTY, et al.,
9 Respondents,

10 and
11 WASHINGTON STATE DEMOCRATIC
12 CENTRAL COMMITTEE,
13 Intervenor-Respondent.

14
15 DEPOSITION OF SAM S. REED
16 Taken on behalf of the Intervenor-Respondent
17 April 25, 2005
18

19 BE IT REMEMBERED THAT, pursuant to the Washington Rules of
20 Civil Procedure, the deposition of SAM S. REED, was taken
21 before Tia B. Reidt, #2798, a Certified Shorthand
22 Reporter, and a Notary Public for the State of Washington,
23 on April 25, 2005, commencing at the hour of 9:21 a.m.,
24 the proceedings being reported at Perkins Coie, 111 Market
25 Street, Olympia, Washington.

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Court Reporting

Trial Presentation

Videoconferencing

Videography

1 Q. Internal control to prevent...

2 A. Duplicate voting, yeah.

3 And my experience over the years, it
4 happens sometimes like with elderly who vote, say, 18 days
5 before the election, and then it comes to election day,
6 they don't remember they voted, so they went to the polls
7 and they end up casting a provisional ballot, so...

8 Q. Okay. Mr. Secretary, I'm going to ask you
9 some more questions about best practices. I won't be
10 looking for legal conclusions, but your view --

11 MR. AHEARNE: And I understand from your comment
12 that I do have a standing objection --

13 MR. MAGUIRE: Correct.

14 MR. AHEARNE: So none of these questions or
15 answers are asking for a legal conclusion.

16 MR. MAGUIRE: Correct.

17 MS. DURKAN: Can I have the same standing
18 objection?

19 MR. MAGUIRE: Certainly.

20 BY MR. MAGUIRE:

21 Q. Mr. Secretary, should a County have counted
22 provisional ballots cast by individuals who are not
23 registered voters?

24 A. A County cannot count a ballot if this person
25 is not a registered voter, that is correct.

1 like, vote twice or who signed a ballot for somebody else,
2 and we -- I did turn those over to the prosecutor and the
3 sheriff.

4 Q. Those were double voting and were things that
5 you've looked for when you were the Thurston County
6 auditor?

7 A. That is correct, right.

8 Q. And tried to prevent?

9 A. Right.

10 Q. And when you learned of it, you disclosed it
11 to law enforcement authorities?

12 A. That is correct.

13 Q. Mr. Secretary, should a County allow a person
14 to cast multiple ballots?

15 A. No.

16 Q. In your view --

17 A. No. To be more precise, obviously we should
18 not count multiple ballots from a person.

19 As I said, we -- I certainly have had the
20 experience where people have voted twice by mistake, and
21 we found out it really was by mistake. They voted, say,
22 real early and then forgot they voted and voted again,
23 like election day or something. But we -- so what is
24 imperative is that you make sure that you don't count more
25 than one vote per person.

1 who wins based on a statistical analysis of illegal
2 voters?

3 MR. AHEARNE: Counsel, he's answered this
4 question twice already.

5 BY MS. DURKAN:

6 Q. You can answer.

7 A. Yes. I think it's up to the Court, though.
8 I think that the judge has to look at the evidence and
9 consider the expert testimony and, based upon that, make
10 that decision.

11 Q. Okay. Mr. Maguire had asked you some
12 questions about voters that were two-time voters.

13 A. (Witness nods head affirmatively.)

14 Q. And you gave an example of when you were in
15 Thurston County that an elderly person might vote an
16 absentee, can't remember if they voted, and show up at the
17 polls.

18 Do you recall that?

19 A. Yes.

20 Q. And in those circumstances, would you count
21 the first vote you received?

22 A. Yes, we would, right.

23 Q. Mr. Maguire also asked you some questions
24 with regards to what was more accurate, hand count versus
25 machine count.

CERTIFICATE

I, Tia B. Reidt, do hereby certify that pursuant to the Rules of Civil Procedure, the witness named herein appeared before me at the time and place set forth in the caption herein; that at the said time and place, I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 1st day of May , 2005.

Tia B. Reidt

Tia B. Reidt

June 10, 2006

Commission Expiration

EXHIBIT F

Voter Details		Properties	Flags/Misc	
Voter ID ID 910389394 STATUS ACTIVE STATUS VOTED AT POLL ADDRESS Image 910389394 Auto Sig <input type="checkbox"/> DOB <input type="text"/> SSN - 9497		Name Prior Name Alternate Name Name DOB DOB JUDITH DOB A DOB SHAFFER DOB <input type="text"/> DOB <input type="text"/>		
Residence Zip 2810 City / State County ALPINE City ST County SF City City AUBURN Zip 98002 Phone 0058.822 Manual <input type="checkbox"/>		Mailing City Street 642 N 65TH WAY City MESA State AZ Zip 85205 Country		
Delete Print		OK Cancel		

Chenook Sch.

TH - 13th

^(is voter inquest)
Judith Shaffer listed
 in Aub. 31 0058 but
 Barbara Shaffer signed

Barbara Shaffer is
 listed in Aub 31 0065
 with no signature

(Barbara did not get
 credit + Judith did)

Voter Detail:		Properties:		Flag/Misc	
Voter ID Voter ID: 780380853 Status: ACTIVE Reason: 99-OFFICE CORRECTION Affidavit: Image: 780380853 Auto Sig: <input type="checkbox"/> DMV Lic: SSN:		Name Prior Name Alternate Name Name: Prefix: First: BARBARA Middle: G Last: SHAFFER Suffix: Birth Date:			
Residence House: 2604 Trac: / Dir: Street: FIR Type: ST Post Dir: SF Bldg: Apt: City: AUBURN Zip: 98092 Precinct: 0065.930 Manual: <input type="checkbox"/>		Mailing Care of: Street/Bx: Mail City: Mail St: MZip: County:			
Print		Ok		Cancel	

KC 04435

MARK1 WHEN ISSUED	MARK SB. FOR SPOILED BALLOT	✓ FOR SPECIAL / CHALLENGED BALLOT	BALLOT NO. GIVEN VOTER	BALLOT CODE REGISTRATION NO.	NAME AND ADDRESS	DOB / Gender
1			1	91038934	SHAPPER, JUDITH A 2810 ALPINE ST SE	9/07 F
3			49	99085828	SHANE, DOUGLAS M 2815 FOREST RIDGE DR SE	2/27 M
5			5	98064236	SHIELDS, MICHAEL P 2610 FOREST RIDGE DR SE	7/02 M
6			6	78078513	SHIELDS, TERESA JO 2810 FOREST RIDGE DR SE	10/19 F
7			7	92183742	SHORNER, DONNA A 2745 DOGWOOD ST SE	10/03 F
9			9	20015311	SIMONSEN, KERESE T 2810 ALPINE ST SE	2/12 F

SIG. TOTAL THIS PAGE:

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PRECINCT NAME : AUB 31-0065

0065

PAGE : 388

MARK 1 WHEN ISSUED	MARK SB FOR SPOILED BALLOT	✓ FOR SPECIAL / CHALLENGED BALLOT	BALLOT NO. GIVEN VOTER	BALLOT CODE REGISTRATION NO.	NAME AND ADDRESS	DOB / Gender
1				BALLOT CODE 8 REGISTRATION NO. 30574303	SAHIZAR, MELANIE A 2801 AUBURN WAY S # 616	11/20 F
2				BALLOT CODE 8 REGISTRATION NO. 884661	SANDBERG, Sissy J 2801 AUBURN WAY S	2/04 F
3				BALLOT CODE 8 REGISTRATION NO. 97037620	SCHMIDT, STACEY JOE 2801 AUBURN WAY S # 116	8/11 F
4				BALLOT CODE 8 REGISTRATION NO. 10640376	SCHNOOR, DONALD MILTON 2837 FOREST RIDGE PL	11/13 M
5				BALLOT CODE 8 REGISTRATION NO. 30446501	SCHULTZ, CATHERINE L 808 28TH ST SE	9/28 F
6				BALLOT CODE 8 REGISTRATION NO. 980630587	SEABROOK, MICHAEL ADAM 2801 AUBURN WAY S # L16	11/17 M
7				BALLOT CODE 8 REGISTRATION NO. 90283759	SEIGAL, JESSICA 3436 AUBURN WAY S # 27	9/20 F
8				BALLOT CODE 8 REGISTRATION NO. 990499900	SEPULVEDA, LESLIE J 2801 AUBURN WAY S # K8	4/26 F
9				BALLOT CODE 8 REGISTRATION NO. 78030853	SHAFER, BARBARA G 2801 FIR PL SE	2/07 F
10			18	BALLOT CODE 8 REGISTRATION NO. 990104514	SHAFFER, ROBERT L 2804 FIR ST SE	9/07 M

I HEREBY DECLARE UNDER PENALTIES OF PERJURY THAT I AM A REGISTERED VOTER OF THE STATE OF WASHINGTON QUALIFIED TO CAST A BALLOT AT THIS ELECTION AND THAT I HAVE VERIFIED MY ADDRESS AS IT APPEARS ON THIS PAGE.

SIG. TOTAL THIS PAGE :

KC 04437

EXHIBIT G

1

VERBATIM REPORT OF PROCEEDINGS
Court's Oral Decision

APPEARANCES

1

5/2/2005 Verbatim Report of Proceedings

1 FOR THE DEMOCRATIC Ms. Jenny Durkan
 CENTRAL COMMITTEE: Mr. David Burman
2 Mr. Russell Speidel
3 FOR SECRETARY OF STATE: Mr. Tom Ahearne
 Mr. Jeffrey Even
4 Mr. Nick Handy
5 FOR KLINKITAT COUNTY: Mr. Tim O'Neill
6 FOR SNOHOMISH COUNTY: Mr. Gordon Sivley

7 * * *

8 (Oral Argument by Counsel)

9 THE COURT: All right, counsel, I'm going to give a
10 ruling on this motion and my ruling is going to be pretty
11 brief, not as long as some have been in the past. In this
12 particular instance the Washington State Democratic Central
13 Committee have filed a motion in limine to exclude the
14 petitioners' attribution of illegal votes, and I understand
15 after reading these materials, because it was not necessarily
16 a term that was familiar to me, that this attribution argument
17 has various names. It can be attribution. It's also called
18 proportional analysis, proportionate deduction. It's called
19 statistical analysis, and I think as one of the petitioners'
20 experts has referred to it as perhaps even ecological
21 inference.

22 At its most basic, the Court understands, the use of
23 this methodology would purportedly show that if the illegal
24 votes are apportioned between Mr. Rossi and Ms. Gregoire and
25 deducted from their totals, the result would show that Mr.

5/2/2005 Verbatim Report of Proceedings

1 Rossi received more legal votes than Ms. Gregoire. The
2 intervenors in this case ask the Court, by motion in limine,
3 to exclude this evidence of statistical analysis and, in
4 essence, reject the theory. I'm not going to summarize the
5 arguments that have been made in support of and opposition to
6 this motion because we've heard those this morning. I will
7 say that the intervenors assert that such evidence is
8 inconsistent with the standard of proof required to invalidate
9 an election.

10 The Court concludes that neither specifically has our
11 state legislature, nor our courts established any guidelines
12 in this particular area. Decisions of courts from other
13 states to include, I would note, California and Idaho have
14 resulted in mixed opinions. Some favor the admission of such
15 evidence and some reject such evidence. Based on the review
16 of the statutes, the out-of-state cases, including Hill v.
17 Howell in our state, and the arguments that have been made
18 both orally and in writing to the Court, the Court's going to
19 deny the intervenor's motion in limine in this case to exclude
20 this evidence subject, of course, to a Frye hearing, if one is
21 requested.

22 However -- and this is an important however. The
23 denial of this motion should not be interpreted as a pretrial
24 ruling adopting the statistical analysis methodology, so
25 everyone understands that, and that's the ruling of the Court.

5/2/2005 Verbatim Report of Proceedings

1 Any questions? The next motion the Court would like to take
2 up is whether crediting files are admissible.

3 (Oral Argument by Counsel)

4 THE COURT: This motion before the Court has been
5 brought by the intervenors and it is a motion in limine to
6 exclude evidence of what's called voter crediting and to
7 require the petitioners to introduce the so-called best
8 evidence of voting. And as we've heard and as I've read, the
9 intervenors here allege that the petitioners intend to rely on
10 so-called voter registration files to prove that the
11 individual illegal voters actually voted. One of our election
12 contest statutes is RCW 29A.68.110 dealing with illegal votes
13 and that statute provides that no election may be set aside on
14 account of illegal votes unless it appears that an amount of
15 illegal votes has been given to the person whose right is
16 being contested that, if taken from that person, would reduce
17 the number of the person's legal votes below the number of
18 votes given to some other person for the same office after
19 deducting therefrom the illegal votes that may be -- that may
20 be shown to have been given to the other person.

21 In response, the Court understands the petitioners here
22 to say that there are in excess, I think, of at least a
23 thousand votes cast by persons who were disqualified either
24 because they were felons who had not been re-enfranchised, by
25 persons who cast more than one vote or because ballots were

5/2/2005 Verbatim Report of Proceedings

1 cast in the names of deceased persons. And I also understand
2 there is an argument that there are hundreds of provisional
3 ballots improperly put in tabulating machines without
4 verifying that the ballots were from lawfully registered
5 voters who had not already voted. Counsel have talked about
6 the statute and the statute actually is 29A.08.125 and the
7 petitioners argue that the voter crediting records are indeed
8 competent evidence of the fact that a person voted because
9 those records are required to be maintained by the auditor
10 pursuant to this particular statute and, indeed, that statute
11 does require the auditors to maintain these particular
12 records.

13 But although these records, I think, are certainly
14 admissible under our rules of evidence, the process of
15 crediting voters with having voted is a post-election
16 administrative exercise that this Court determines does not
17 bear upon the authenticity of election results and because of
18 that, the Court grants the intervenor's motion and, therefore,
19 the Court will require that any party, whether it be the
20 petitioners or the intervenors, who allege that there have
21 been illegal votes, they're going to be required to use the
22 poll book page signed by the voter or a provisional ballot
23 envelope signed by the voter which was submitted presumably at
24 the time or an absentee ballot envelope. Any questions,
25 counsel? Folks, let's take the morning recess for about 15

5/2/2005 Verbatim Report of Proceedings

1 minutes and then we'll take up. I think we can finish these
2 motions this morning.

3 (Recess taken)

4 (Oral Argument by Counsel)

5 THE COURT: All right. There are actually two motions
6 before the Court. They are, if I can use the word, companion
7 motions. The first is the petitioners' motion to clarify the
8 burden of proof with respect to illegal votes, and the counter
9 motion brought by the intervenors is a motion in limine to
10 exclude evidence of petitioners' illegal convicted felon
11 voters. The Court understands, first, that the petitioners
12 intend to offer evidence of votes which were cast by felons
13 who were disqualified from voting under the Washington State
14 Constitution and that the argument is that upon a prima facie
15 showing by the petitioners that a voter is a felon and that
16 court records do not reflect any restoration of civil rights
17 that the respondents should be -- should bear the burden of
18 showing that the felon's civil rights have been restored
19 through either a certificate of discharge issued by the
20 felon's sentencing court or some other paperwork and that
21 absent such a showing by the respondents here, the
22 intervenors, that the Court should deem the felon's vote
23 illegal and invalid.

24 The companion motion filed by the intervenors is this,
25 that the intervenors assert in their motion in limine that the

5/2/2005 Verbatim Report of Proceedings

1 Court should exclude all evidence of illegal felon voters
2 unless the petitioners can prove six elements. One, that the
3 -- that the vote was -- that the voter was convicted as an
4 adult, that the voter was convicted of a felony, that the
5 voter had not been given a deferred sentence, that the voter
6 had not been discharged pursuant to RCW 9.94A.637, that is,
7 not had their civil rights restored. Fifth, that the voter
8 cast a ballot in the 2004 general election and finally, number
9 six, that the voter marked the ballot to indicate a vote for a
10 gubernatorial candidate.

11 This, the Court recognizes, is an important decision,
12 as are all of these decisions we're dealing with today and as
13 well as those that have preceded today's hearing. And as the
14 Court was going through these motions and as I was lying in
15 bed last night, I had one of the fears that I think attorneys
16 have had often, I'm sure, did I miss something. Am I going to
17 get in court and realize that there is an issue that I just
18 completely overlooked. Mr. Foreman started out his
19 presentation a few minutes ago with the burden of proof
20 argument, that is, is it by a preponderance of the evidence or
21 is it clear, cogent and convincing evidence. And in
22 actuality, I hadn't anticipated specifically that that
23 argument was before the Court, based on the written materials
24 that the Court had been presented. I'll make a ruling. If
25 counsel wish, however, to readdress the issue, I invite

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1 counsel to do that.

2 First with respect to the petitioners' motion here, the
3 Court's going to deny petitioners' motion and I do so for the
4 following reasons: Evidence of a felony conviction, coupled
5 with the absence of a certificate of discharge in a court
6 file, in this Court's mind does not establish a prima facie
7 case of illegal felon voting, and the Court concludes that
8 really based upon the reasoning provided by the Secretary of
9 State in their written materials.

10 Secondly, the burden of proof, this Court concludes,
11 rests with the party contesting the election and that burden
12 of proof does not shift. The reasons the burden of proof does
13 not shift is grounded in both our case law as well as our
14 statutes, and the Court, of course, as are counsel, we're all
15 mindful that the courts of this state presume the certified
16 results of an election to be valid unless the contrary is
17 clearly established. And unless an election is clearly
18 invalid, when the people have spoken their verdict should not
19 be disturbed by the courts.

20 Pursuant to RCW 29A.08.810, the registration of a
21 person as a voter is presumptive evidence of his or her right
22 to vote. And pursuant to RCW 29A.08.820, when a voter's
23 registration is challenged before an election, the burden of
24 proving that he or she is improperly registered rests with the
25 challenger and must be proved by clear and convincing

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1 evidence. The same standard should apply when election
2 results are contested under 29A.68.020. Inasmuch as voting is
3 a constitutional right, no vote should be held illegal and
4 discounted absent clear proof that the voter was legally
5 disenfranchised.

6 Now as to the intervenor's motion in limine to exclude
7 evidence of petitioners' erroneously listed illegal convicted
8 felon voters, specifically the Washington State Democratic
9 Central Committee argues that the petitioners must show
10 evidence of the six elements that I've referenced to prove
11 that an illegal felon actually voted. The Court's decision
12 with respect to this motion in limine to exclude this evidence
13 is this. The Court's going to deny that motion and the Court
14 does so for the following reasons: First, our law instructs
15 that the Court should only grant a motion in limine if the
16 Court is able to determine that the evidence is clearly
17 inadmissible based on the issues. And here, the evidence
18 discussed in the intervenor's motion may be insufficient but
19 it is not clearly inadmissible.

20 Now, counsel, I recognize that you're asking for some
21 guidance from the Court so I'll offer the following to you.
22 To the extent that both the petitioners as well as the
23 intervenors seek clarification as to the evidence which must
24 be established to demonstrate that an illegal felon voted, the
25 Court instructs that the following elements should be

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1 established to the extent that these elements can be
2 established. One, that the individual was convicted as an
3 adult and was not adjudicated as a juvenile. Number two, that
4 the individual was convicted of a felony, not a misdemeanor or
5 a gross misdemeanor. Number three, that the individual was
6 not given a deferred sentence. Number four, that the
7 individual has not had his or her civil rights restored in one
8 of the five ways described by the Secretary of State. Number
9 five, that the individual cast a ballot in the 2004 general
10 election and, number six, that they marked the ballot to
11 indicate a vote for a gubernatorial candidate.

12 Now, based on this Court's ruling with respect to voter
13 crediting, evidence that a particular person voted should be
14 based upon the poll books and the ballot envelopes. And with
15 respect to this last element, element number six, that there
16 should be evidence that an individual marked a ballot for a
17 gubernatorial candidate, the Court is mindful that it has not
18 precluded petitioners from introducing evidence of attribution
19 conditioned on a Frye hearing. And although these
20 determinations are obviously inconsistent and ultimately may
21 be mutually exclusive, whichever party intends to convince the
22 Court that illegal felons voted should present all of the
23 evidence available, if any, as to element number six.

24 One of the cases that we have talked about for quite a
25 while now the last several months is Foulkes v. Hayes and in

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1 that case our Supreme Court talks about the inability to come
2 up with the smoking gun. I recognize that and it just may be
3 simply impossible to come up with all of these elements I've
4 referred to and particularly element number six. I'm simply
5 indicating you folks should come up with all that you have.

6 With respect to and responding to Mr. Foreman as to
7 simply what is the burden of proof, I'm going to say it's
8 clear and convincing. And I understand the Secretary of
9 State's argument. I'm mindful of the cases. I've read the
10 statutes and I think that is the appropriate burden but, Mr.
11 Foreman, if your folks disagree with that, I mean, I would
12 encourage specific briefing just as to that issue, but at this
13 time that's the Court's ruling.

14 Now, I want to go one step further, counsel, and this
15 is not by invitation necessarily but I think by necessity, and
16 I certainly don't intend to mischaracterize anybody's argument
17 here and specifically the petitioners' argument, but there is
18 a theme that I sometimes see as I read these materials and the
19 theme is this -- or the issue is this. May an election be
20 invalidated where the number of illegal votes exceed the
21 margin of victory, and I don't know if the petitioners intend
22 to pursue that simple issue because it's simple to state. But
23 I want to address it now so we can get it out of the way. And
24 so because it's the Court's impression that petitioners may
25 continue to argue that they do not have to prove which party

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1 was credited with an illegal vote, under some of our case law,
2 particularly Foulkes v. Hayes and Hill v. Howell, this is the
3 Court's reasoning.

4 While petitioners' arguments in this regard may be
5 persuasive, Washington's election contest statutes clearly
6 require the contestant to show illegal votes or misconduct
7 changed the election result based on RCW 29A.68.110 and .070.
8 And neither the Hill case nor the Foulkes case mentioned these
9 specific statutes and in both of those cases where fraud was
10 shown, the Court may set aside the election without requiring
11 proof that the result was changed. The contestants in Foulkes
12 did not allege illegal votes had been counted but, rather,
13 that properly cast ballots had been fraudulently altered. And
14 under these facts, our Supreme Court held the trial court had
15 correctly overturned the election without proof the result had
16 been affected.

17 Similarly, in Hill the Court required proof illegal
18 votes changed the result, but in doing so remarked in somewhat
19 contradictory dicta that such a showing might not be required
20 where fraud, intimidation or a fundamental disregard of the
21 law had occurred. Also, there is an out-of-state case, the
22 Gooch case from Florida where the California court -- I'm
23 sorry, Florida. Out of California. The California court
24 interpreted a statute almost identical to our 29A.68.110 to
25 not require proof the result was changed where a candidate's

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1 organization had engaged in large scale voter fraud. But in
2 our case here today, the petitioners have never alleged, to
3 the Court's knowledge, or even alluded to fraud or voter
4 intimidation. The only case where a Washington court did not
5 require proof of causation was Foulkes and that case involved
6 fraud.

7 The rule urged by petitioners may be a wise one and a
8 tempting choice for the Court. However, the Washington
9 legislature has, by enacting RCW 29A.68.110 and .070, removed
10 this choice from this Court's discretion. The statutory
11 command is clear and the Court should not invalidate the
12 election upon proof the number of illegal votes exceeded the
13 margin of victory. If the Supreme Court wishes to clarify
14 Hill's fundamental disregard exception to the causation
15 requirement, then they certainly, as we all know, will have
16 the opportunity to do that. Any questions, counsel, Mr.
17 Foreman, Ms. Durkan?

18 MR. FOREMAN: No, Your Honor.

19 MS. DURKAN: No, Your Honor.

20 THE COURT: Mr. Even?

21 MR. EVEN: No, Your Honor.

22 (Oral Argument by Counsel)

23 THE COURT: All right. The motion before the Court is
24 this. It's the petitioners' motion in limine to exclude
25 evidence concerning what are called previously rejected

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1 ballots and other offsetting errors and to clarify the limited
2 scope of the intervenor's evidence here. And as one might
3 imagine, as so often happens, from the time of the filing of
4 such a motion and the response, the focus changes somewhat and
5 it's the Court's perception that that has occurred here.

6 Originally the focus, I understand, of petitioners'
7 motion was to preclude, by motion in limine, the intervenors
8 from presenting evidence of what I would call signature
9 mismatches or rehabilitation of signatures or comparison of
10 each provisional ballot envelope signature to a voter
11 registration, but I understand that in response to that,
12 intervenors indicate that they do not intend to engage or
13 present evidence of signature mismatches or rehabilitation of
14 signatures or even comparison of provisional ballot or
15 absentee ballot envelopes with voter registrations. I'll take
16 them at their word.

17 Intervenors indicate here that they, however, do intend
18 to offer evidence of errors that deprived voters of their vote
19 where those folks who voted had timely submitted their ballots
20 and all requested information to the election officials and
21 they argue specifically that various election officials,
22 particularly in King County, I think, failed to compare
23 signatures and some rejected ballots because the officials
24 failed to include a copy of the signatures on their voter
25 registration database and could not find the voters' original

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1 registrations. Other instances, I think, the intervenors
2 discuss would be that the intervenors allege that other errors
3 occurred that may have led King County to reject provisional
4 ballots which actually should have been accepted if there had
5 simply been a signature comparison, and there are some other
6 arguments that are more particular to Eastern Washington.

7 The Secretary of State here argues this, and it really
8 is, in part, I think, in response to Mr. Maguire's argument
9 made this morning because the focus of the oral argument, I
10 think, is CR 24(c), that is, the intervenors are sandbagging.
11 And in response in their written materials, the Secretary of
12 State argues that the provisions of our election contest
13 statute require the effect of illegal votes and election
14 contest errors on both the winner and the runner-up be
15 considered in order to fully address which candidate received
16 the highest number of lawfully cast votes. And the Court
17 agrees with that proposition, in essence, and because the
18 Court agrees with that, the Court's going to deny the
19 petitioners' motion in this regard.

20 I think it has been fairly clear from the beginning
21 that the intervenors intended to present some evidence that
22 would offset some of the petitioners' evidence and although
23 the specifics of that may not have been known until recently,
24 I think that the spirit of our election contest statute has to
25 offset somewhat Civil Rule 26(c) and so the Court's going to

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1 rule this. The Court's going to deny the petitioners' motion,
2 but having denied the motion, the Court will make this
3 observation, that the definition of illegal votes and election
4 errors applies to any evidence that the intervenors may seek
5 to admit and if the petitioners believe at trial that such
6 evidence as intervenors may seek to admit is improper under
7 the election contest statute, then petitioners should
8 interpose an objection at that time. So, Mr. Maguire, any
9 questions about that?

10 MR. MAGUIRE: No, Your Honor, thank you.

11 THE COURT: Mr. Burman?

12 MR. BURMAN: No, Your Honor.

13 THE COURT: Mr. Even, any questions?

14 MR. EVEN: No, Your Honor.

15 (End of Court's Oral Decision)

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1 STATE OF WASHINGTON)

: ss

2 County of Chelan)

3 I, LuAnne Nelson, a Certified Shorthand Reporter, and
4 official reporter for Chelan County Superior Court, do hereby
5 certify:

6 That the foregoing Verbatim Report of Proceedings was
7 reported at the time and place therein stated and thereafter
8 transcribed under my direction and that such transcription is
9 a true, complete and correct record of the proceedings.

10 I further certify that I am not interested in the
11 outcome of said action, nor connected with, nor related to any
12 of the parties in said action or their respective counsel.

13

14

Official Court Reporter

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THE HONORABLE JOHN E. BRIDGES

SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR CHELAN COUNTY

Timothy Borders et al.,

Petitioners,

v.

King County et al.,

Respondents,

and

Washington State Democratic Central
Committee,

Intervenor-Respondent.

NO. 05-2-00027-3

[PROPOSED] ORDER GRANTING
WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT ON PETITIONERS'
CLAIMS OF DUAL VOTES

1
2 THIS MATTER comes before the Court on Washington State Democratic Central
3
4 Committee's Motion for Partial Summary Judgment on Petitioners' Claims of Dual Votes
5
6 (the "Motion"). The Court having reviewed the Motion and any other briefing filed in
7
8 support of or opposition thereto, and any reply, and all declarations filed in support of or in
9
10 opposition to the Motion, and being fully advised in the premises, now, therefore, it is
11
12 hereby ORDERED that:

13
14 Washington State Democratic Central Committee's Motion for Partial Summary
15
16 Judgment on Petitioners' Claims of Dual Votes is hereby GRANTED.

17
18 Petitioners' claims regarding dual in-state votes and dual multi-state votes are hereby
19
20 dismissed with prejudice.

21
22
23
24 ENTERED this ____ day of _____ 2005.

25
26
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28 _____
29 The Honorable John E. Bridges
30
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1 Presented by:
2
3

4 /s William C. Rava
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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CHELAN COUNTY

Timothy Borders et al.,

Petitioners,

v.

King County et al.,

Respondents,

and

Washington State Democratic Central
Committee,

Intervenor-Respondent.

NO. 05-2-00027-3

CERTIFICATE OF SERVICE

The undersigned is a citizen of the United States and resident of the State of Washington, is over the age of eighteen and is not a party to the within action.

The following documents were caused to be served: Note for Motion; WSDCC's Motion for Partial Summary Judgment on Petitioners' Claims of Dual Votes; Declaration of William C. Rava; Proposed Order; and Certificate of Service. These documents were served in the manner described below.

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☐ Via Facsimile

38 I declare under penalty of perjury that the foregoing is true and correct, and that this
39 certificate was executed in Seattle, Washington on May 13, 2005.

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44 By 
45 Linda Nelson
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